

**COMMITTEE ON LIMITED JURISDICTION COURTS
DRAFT MINUTES**

Wednesday, May 21, 2008
10:00 am to 2:30 pm
State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

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| Honorable R. Michael Traynor | Honorable Jeffrey A. Klotz |
| Honorable Ted W. Armbruster (telephonic) | Honorable Dorothy Little |
| Mr. Daniel Carrion | Honorable Kathy McCoy |
| Honorable Thomas L. Chotena | Mr. James R. Scorza |
| Ms. Faye Coakley | Mr. Mark Stodola |
| Honorable Timothy Dickerson | Honorable J. Matias Tafoya |
| Ms. Joy Dillehay | Ms. Marla Randall - |
| Honorable Sam Goodman | |
| Ms. Joan Harphant | |

MEMBERS ABSENT:

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| Honorable Phillip Bain | Honorable Nicole Laurin |
| Honorable James P. Angiulo | |

PRESENTERS/GUESTS:

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| Chief Justice Ruth V. McGregor | Julie Dybas |
| Mr. Jerry Landau | Sharleen Decker |
| Kathy Waters | Nancy Swetnam |
| Sarah Schmoll | David Withey |
| J.L. Doyle | |

STAFF:

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| Ms. Susan Pickard | Ms. Tama Reily |
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 21, 2008 meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge R. Michael Traynor, Chair, at 10:10 am.

Judge Traynor made the following announcement:

- Mr. Mark Meltzer was introduced as the new AOC staff to the LJC, and welcomed to the committee.

Mr. Paul Julien, introduced Mr. Chad Campbell, new Program Manager for the Judicial College at the AOC's Education Services Division.

B. Approval of March 5, 2008 Minutes

The minutes for the March 5, 2008 meeting of the LJC were presented for approval.

MOTION: To approve the minutes from the March 5, 2008 meeting a presented. Seconded. Passed unanimously. LJC-08-005

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Mr. Jerry Landau, Director of Government Affairs for the AOC, apprised members of the status on legislation filed during the 2008 session that impact limited jurisdiction courts. The following items were highlighted:

HB2395: DUI Omnibus

This bill, vetoed by the governor in April, is being added onto **HB2643**, commonly known as "the Restaurant Grill Bill," which makes technical changes to license fees for restaurants that sell alcohol. This version will remove the reduction on the 6 month interlock. The interlock for first offense will remain at one year. It also splits the extreme DUI into A1 and A2, and sets the penalty for the jail sentence for each. As well, it resolves the sentencing conflict in extreme DUI by repealing the provision that allows the judge to suspend part of the minimum sentence for a first offender, .15 to .20. It will be heard next week, and will probably pass. Effective date would be January 1, 2009.

HB2751: Driver licenses requirement; Violation

Classifies driving a motor vehicle without a valid driver license as a class 1 misdemeanor and requires the court to dismiss the citation if specified conditions are met. Currently stalled in senate caucus.

SB1160: Juror Summons; Questionnaire; Return postage

Prohibits the returning of juror questionnaires from generating any cost upon the prospective juror. This one is stalled; has not had a hearing in House Rules.

B. Recognition of Service

Chief Justice Ruth V. McGregor presented Judge R. Michael Traynor with a Certificate of Appreciation and thanked him for 16 years of faithful commitment

and service to the LJC.

C. Arizona Code of Judicial Administration (ACJA) §§ 6-105; 6-201; 6-202

Ms. Kathy Waters, Director of AOC Adult Probation Services Division, presented proposed modifications to several code sections. All have previously been heard and approved by the Committee on Probation (COP).

ACJA § 6-105: Powers and Duties of Officers

Changes to the code are as a result of the initiative to roll out Evidence-based Practices to probation in the State of Arizona.

MOTION: Approve ACJA § 6-105: Powers and Duties of Officers as presented. Seconded. Passed unanimously. LJC-08-006

ACJA § 6-201: Standard Probation

Points of discussion at the COP:

- Removal of minimum contact standards. Contacts will be driven by the risk/needs assessment and offender behavior.
- Case plans for low risk offenders are not required, unless there is an identified criminogenic need requiring a strategy for intervention.
- Revised criteria for what is included as a direct (active) case, specifically, the exclusion of jail cases.

MOTION: Approve ACJA § 6-201: Standard Probation with modifications presented. Seconded. Passed unanimously. LJC-08-007

ACJA § 6-202: Adult Intensive Probation

Points of discussion at the COP:

- Impact on the IPS Program if restricted only to high-risk offenders

MOTION: Approve ACJA § 6-202: Adult Intensive Probation as presented. Seconded. Passed unanimously. LJC-08-008

D. MAS Reporting Requirements

Ms. Julie Dybas, manager for the AOC Court Operations Unit, briefed the members on changes in MAS procedures for “co-located” courts.

E. Criminal Procedure Manual Update/DPS Photo Enforcement Update

Ms. Sharleen Decker updated the Committee on the limited jurisdiction courts criminal procedure manual. It is currently 74% complete, with the original chapters having been submitted. Target date for distribution to the court community is October 31, 2008.

All eight DPS photo enforcement pilot courts are online and ready to receive citations. Reports are currently being developed for courts to track cases, payments, and other issues. Ms. Decker welcomed any comments and/or suggestions from photo enforcement courts for developing reports that could aid in the processing of cases.

F. Judicial Vacancy Notification

Ms. Susan Pickard reported on planned changes to the Arizona Judicial Branch website to provide an effective and standard location for attorneys statewide to view judicial opportunities. The Committee is asked to provide any recommendations they may have to gather vacancy information for judges, pro tems, and commissioners.

Committee Comments:

- It would be a more proactive process if the AOC were to send out a list of the vacancy information to all the various bar associations, rather than having the need for individuals to go to the website
- It might be useful to look at the city clerk's offices because they handle the entire recruitment process
- In order to give the website credibility, it seems like it should be mandated that openings be reported to the AOC
- Mandating it seems reasonable, because for example, if a judge takes a leave of absence, it is required that the PJ and the Chief Justice be notified in writing

Susan will pass on the members' comments and suggestions to the AOC staff involved with this project, and will provide updates to LJC as it progresses.

G. Legislative Impact and Implementation for the Defensive Driving Program

Ms. Joan Harphant, Tucson City Court Administrator, and Nancy Swetnam, Certification & Licensing Division Director, AOC, reported on the status of the implementation plan and discussed its impact on ACJA 7-205, and various other related issues. In addition, some of the questions and concerns raised at the Maricopa County LJC's Presiding Judges Meeting on May 9, 2008 were brought forward for feedback from the committee today. These included:

- Defendants should be required to complete defensive driving school 7 days prior to their court date.
- The schools must provide the information to the AOC within 3 days. The AOC will forward the information to the court by the night of the 3rd day. This would ensure that the court would have the information on the fourth day, and allow time for resolving any problems that might exist with that file.
- The issue of continuances needs further discussion in order to develop a workable solution that is within the confines of the law.

Committee Comments/Concerns:

- Schools in rural areas only offer defensive driving classes once per month, this should be taken into consideration.
- If schools are allowed to apply and/or become certified any time during the year, versus having limitations or set deadlines, it will be very difficult from an Information Technology standpoint.
- Several members expressed concern about schools sending electronic information without the payment, as this would place a great hardship on the courts.
 - *Judge Traynor noted that his understanding is the “information” being received electronically includes the payment, otherwise it seems they would not be in compliance with the statute.*

The subcommittee meets again at 1:30 on May 29, 2008, conference room 109, and will be reporting back to the LJC in September.

NOTE: A document summarizing the many issues raised at the May 9, 2008 meeting noted above, was produced by Jim Scorza, and this will be sent to committee members following today’s meeting.

H. ACJA § 1-303: Employee Code of Conduct for Judicial Employees

Mr. David Withey presented the modified version of Section 1-303: Code of Conduct for Judicial Employees, which was previously presented at the last LJC meeting. In response to the Committee’s concerns, the following amendments have been made:

“Courtroom Clerk,” has been amended to apply to employees performing these duties in all courts (not strictly superior courts).

“Incumbent” is defined to clarify that a person may be an incumbent by appointment to an elected office.

Canon 2F concerning “Former Employees” is amended to avoid undue restriction on use of former employees.

Canon 3E provides a list of circumstances in which court employees are required to provide assistance to court users. This is qualified with a statement stipulating that such duties will be consistent with each court’s resources and policies, and the respective employee’s assigned responsibilities and knowledge.

Canon 5C, 5B, and 5D are revised to authorize any judicial employee to run for an elected judicial department office without resigning or taking an unpaid leave of absence if the office is in a court other than the court in which the employee is employed.

MOTION: Recommend adoption, with proposed amendments, of ACJA §

1-303: Employee Code of Conduct for Judicial Employees. Seconded. Passed unanimously. LJC-08-009

I. Subcommittee Updates

Electronic Documents

Mr. Daniel Carrion reported on the status of the subcommittee's work and presented Version 2 of the proposed ACJA code section for LJC Electronic Document Management. On April 4, the subcommittee presented the proposal to the Technical Advisory Committee (TAC) and gained a commitment from TAC to define technical requirements for a paperless court, with a goal date of September 2008. Collaborative efforts are planned going forward, with TAC member Randy Kennedy joining this subcommittee, and Dan Carrion joining the TAC subcommittee.

Version 2 of the code section is reduced in scope to apply to closed records; it acknowledges the difference between general jurisdiction and limited jurisdiction courts; and allows acknowledgement that electronic documents that come in are original documents. It is presented for approval today.

MOTION: To continue going forward with presenting the version proposed today of the ACJA Section for Electronic Archives for Limited Jurisdiction Courts to the TAC and other committees. Seconded. Passed unanimously. LJC-08-010

Implementation

Ms. Joan Harphant reported that the subcommittee has found significant differences existing in the research fees and procedures among superior courts and limited jurisdiction courts. Due to the findings thus far, the subcommittee is asking direction from the LJC as to whether the scope of its review should include clerk fees.

MOTION: To expand the inquiry currently underway by the Implementation Subcommittee to include clerk fees. Seconded. Passed unanimously. LJC-08-011

Judicial Performance

Judge Traynor informed the members that due to Judge Angiulo's retirement, a new chair will be sought for this subcommittee. It has been inactive for some time.

Rules/Forms

Judge Tafoya stated they have no new items to report.

III. OTHER BUSINESS

Judge Traynor reported that there have been comments received on the pending R-07-0015 filed by the committee in October, 2007. He reminded the

members that the rule petition addressed rules 1, 4, and 6 of the Arizona Rules of Procedure in Traffic and Boating Cases, and was essentially responsible for beginning the electronic document discussion.

The first comment, received from Karl Heckart, Chief Information Officer of AOC's Information Technology department, primarily addressed the intent of the rule petition to make changes to Rule 29D of the Rules of the Supreme Court of Arizona, which is the rule from which the scan and shred issue actually arose. His underlying concern is the destruction of documents, even with the use of a scanning process, such as Onbase.

The second comment, received from the Maricopa County Attorney's Office, concerns the quality of scanning necessary to preserve identifying characteristics, specifically fingerprints. Judge Traynor notes that the court does not typically keep fingerprints as this falls to law enforcement.

A lengthy discussion ensued regarding the comments received, with a consensus reached that the comments are directly relevant to the issues the Electronic Documents Subcommittee is currently addressing. It was agreed that the subcommittee, with the assistance of Judge Traynor, should file a response.

MOTION: Recommend that Judge Traynor, Chair, and the Electronic Documents Subcommittee draft and submit a reply to comments received on R-07-0015. Seconded. Passed unanimously. LJC-08-012

A. NEXT MEETINGS:

Legislative Subcommittee
Tuesday, September 30, 2008
State Courts Building
Conference Room 230
10:00 a.m. – 2:00 p.m.

Committee
Wednesday, October 1, 2008
State Courts Building
Conference Rooms 119 A/B
10:00 a.m. – 2:00 p.m.

B. Good of the Order/Call to the Public No public response.

The meeting was adjourned at 2:15 p.m.

